



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

AF/ 2877
#9/Reconsideration
3-27-03
R. D. D. D.

Applicant: John Edward Pfeifer et al.

Group Art Unit: 2877

Serial No.: 09/590,060

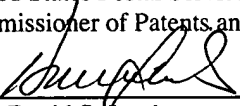
Examiner: Richard Rosenberger

Filed: June 8, 2000

Attorney Docket: PFE-004

Title: Ampoule Analyzer Apparatus

I hereby certify that this correspondence is being deposited on this day with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231.


David S. Jacobson

2/10/02
Date

Honorable Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

This is a timely reply to a Final Office Action dated December 9, 2003. It is believed that no fees are due. However, should any fee be due please charge such fee to deposit account no. 07-1732.

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REQUEST FOR RECONSIDERATION

Claims 1-4, 6-15 and 17-26 are pending in the application. Claims 15 and 17-22 have been allowed.

Claims 1-4, 6-14 and 23-26 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Tamura et al. The applicant respectfully requests reconsideration of the rejections for the following reasons.

First, claim 1 requires “a control means for automatically determining when said light detected is at a predetermined percentage of said first intensity level of said light, said control means including a memory provided with a look-up table relating a time required for performing a test on the ampoule in said apparatus and a biological activity in the ampoule at a start of the test.” Claim 26 is similar to claim 1, but includes method claims by which the automatic determination includes referencing a look-up table in memory. Tamura fails to teach or suggest the claimed look-up table and its use. In distinction, Tamura teaches an automatic calculation to determine the concentration of an endotoxin by comparing a measurement result with a calibration curve (Col. 8, lines 44-45). Such comparison is performed using regression analysis (Col. 7, line 55). This is a very different system from the look-up table of the system in claim 1. With a look-up table, no curves are required and no calculation need be performed. Rather, discrete points are stored and readily accessed without necessitating the sophisticated hardware and software to perform regression analysis on a curve. Furthermore, in Tamura,

comparison is made between an analyte and a reference material. No comparison with a reference material is required in the present invention. There is no suggestion in Tamura for the advantageous approach of the claims.

Second, claims 10, 23, 24 and 25 and 26 (in method terms) require that the light source and detector be located on axially opposite sides of the receptacle which receives the ampoule such that the light is transmitted axially through the ampoule. This is in contrast to prior art ampoule analyzers in which the light and the detector are located on diametrically opposite sides of the receptacle and thus less concentrate is traversed the light. The Examiner has not addressed this limitation. Further, it is noted that Tamura is silent with respect to the direction by which light is transmitted through an analyte.

Third, claim 24 additionally requires “a housing having a receptacle which receives the ampoule and a cover movable between open and closed positions, wherein in said closed position said cover substantially completely shields said receptacle from ambient light”. The Examiner has not addressed this limitation, and there is no teaching or suggestion with respect to this limitation in Tamura.

For the foregoing reasons, the Examiner is requested to reconsider the finality of the rejection and provide an indication that all claims are in condition for allowance. In the less preferred alternative, the Examiner is requested to provide prior art which alone or in proper combination teach or suggest the limitations claimed.

Should any issues remain outstanding, the Examiner is invited to call the undersigned attorney of record so that the case may proceed expeditiously to allowance.

Respectfully submitted,



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